

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

August 24, 2005

IN RE:

PETITION FOR APPROVAL OF TENNESSEE
WASTEWATER SYSTEMS, INC, TO EXPAND
ITS SERVICE AREA TO INCLUDE A PORTION
OF SEVIER COUNTY, TENNESSEE, KNOWN AS
MAJESTIC MOUNTAIN RESORT

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DOCKET NO.
05-00070

ORDER APPROVING PETITION TO AMEND
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

This matter came before Chairman Ron Jones, Director Pat Miller and Director Sara Kyle of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this Docket, at a regularly scheduled Authority Conference held on July 11, 2005 to consider the *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* (the "*Petition*") requesting that the Authority expand its service area to include a portion of Sevier County, Tennessee known as Majestic Mountain Resort

Background

On April 6, 1994, Tennessee Wastewater Systems, Inc.¹ ("TWS" or "Company") received a Certificate of Public Convenience and Necessity ("CCN") in Docket No. 93-09040 from the Tennessee Public Service Commission to provide wastewater service to the Oakwood Subdivision in Maury County. Since that time, through various other dockets, the Company has been granted approval to expand its service territory to include other areas in Tennessee. The Company's principal office is located in Nashville, Tennessee.

¹ Tennessee Wastewater Systems, Inc. was formerly known as On-Site Systems, Inc. This name change was effected by the TRA's order of February 19, 2004, in Docket No. 03-00518.

TWS filed the *Petition* in this matter on March 14, 2005. The Authority issued Data Requests on March 28 and April 29, 2005. TWS provided responses to the Data Requests in a timely manner. TWS filed the Pre-filed Direct Testimony of Charles Pickney, Jr. on May 25, 2005.

Legal Standard for Granting Certificate of Public Convenience and Necessity

No public utility is permitted to begin construction or operation of a new utility facility or service before obtaining approval of the Authority. The procedure for obtaining a CCN evidencing such approval is set forth in Tenn. Code Ann. § 65-4-201(a) (2004), which states as follows:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate . . .

The *Petition*

On March 14, 2005, TWS filed the *Petition* requesting that its service area be expanded to include a portion of Sevier County, Tennessee known as Majestic Mountain Resort. TWS attached several letters to its *Petition* in support of its request to expand its service area. TWS attached a letter from the developer expressing its desire that TWS provide service to the property. In addition, TWS attached letters from each of the two other potential wastewater service providers stating that neither of the potential providers currently serves the area. The letters also indicate that the other potential wastewater service providers do not intend to extend wastewater service to Majestic Mountain Resort.²

² See *Petition* (unnumbered attachments) (March 14, 2005). Letter from Kenny Hayes, Legacy Homes, L L C to Michael Hines, Vice President, Tennessee Wastewater Systems, Inc. (February 14, 2005), Letter from Earlene M Teaster, City Manager for City of Pigeon Forge, Tennessee, to Michael Hines, Vice President, Tennessee Wastewater Systems, Inc (October 26, 2004); Letter from Ken L Maples , Assistant County Mayor for Sevier County, Tennessee, to Michael Hines, Vice President, Tennessee Wastewater Systems, Inc (November 22, 2004)

Rate Schedules

The Company also attached rate schedules listing the Company's commercial sewer rates (with and without food service), a listing of the Company's sewer systems with commercial customers and a service area map showing the proposed location of Majestic Mountain Resort.³

The monthly commercial rate, without food service, will be based on the design flow expected from the type of establishment being served. A minimum of seventy-five dollars (\$75) per month will be charged for the first 300 gallons per day design flow expected (except off-site⁴ will have a seventy-three dollar (\$73) minimum plus pass through costs). For each additional 100 gallons per day of design flow expected, up to 1,000 gallons per day, an additional charge of fifteen dollars (\$15) per month per 100 gallons will be applied. For design flows expected over 1,000 gallons per day, up to 3,000 gallons per day, the following monthly charges per 1,000 gallons of daily flow will apply:

<u>Treatment</u>	<u>Drip/Spray Irrigation</u>	<u>Point Discharge</u>	<u>Off Site</u>
Sand-Gravel Filter	\$140	\$165	N/A
Lagoon	\$116	\$140	N/A
Off Site	N/A	N/A	Pass- Through Costs+ \$73

For design daily flows over 3,000 gallons, the monthly charge on all system configurations will be one hundred sixteen dollars (\$116) per 1,000 gallons of daily flow. Additional surcharges will apply when expected design flows are exceeded. For any month that a customer's water meter reading exceeds the expected design flow, the following surcharges will apply.

<u>Excess water usage</u>	<u>Surcharge</u>
1 gallon to 1,000 gallons above expected design flow	\$175
1,001 gallons to 2,000 gallons above expected design flow	\$200
Over 2,000 gallons above expected design flow	\$200/1,000 gallons

If the water meter readings exceed the design flow for any three consecutive months, the monthly

³Petition, (unnumbered attachments) (March 14, 2005)

⁴ Off site means the treatment and disposal is performed by another entity

charge will be revised to reflect the increased usage. The customer will pay capital costs associated with increasing the capacity of the system.

The monthly commercial rate, with food service, will be based on the design flow expected from the type of establishment being served. A minimum of one hundred dollars (\$100) per month will be charged for the first 300 gallons per day design flow expected (except off-site will have a ninety-four dollar (\$94) minimum plus pass through costs). For each additional 100 gallons per day of design flow expected, up to 1,000 gallons per day, an additional charge of eighteen dollars (\$18) per month per 100 gallons will be applied. For design flows expected over 1,000 gallons per day, up to 3,000 gallons per day, the following monthly charges per 1,000 gallons of daily flow will apply:

<u>Treatment</u>	<u>Drip/Spray Irrigation</u>	<u>Point Discharge</u>	<u>Off Site</u>
Sand-Gravel Filter	\$170	\$192	N/A
Lagoon	\$142	\$163	N/A
Off Site	N/A	N/A	Pass-Through Costs+\$94

For design daily flows over 3,000 gallons, the monthly charge on all system configurations will be one hundred forty-two dollars (\$142) per 1,000 gallons of daily flow. Additional surcharges will apply when expected design flows are exceeded. For any month that a customer's water meter reading exceeds the expected design flow, the following surcharges will apply.

<u>Excess water usage</u>	<u>Surcharge</u>
1 gallon to 1,000 gallons above expected design flow	\$210
1,001 gallons to 2,000 gallons above expected design flow	\$220
Over 2,000 gallons above expected design flow	\$220/1,000 gallons

If the water meter readings exceed the design flow for any three consecutive months, the monthly charge will be revised to reflect the increased usage. The customer will pay capital costs associated with increasing the capacity of the system.

Other commercial fees include a five percent (5%) fee for non-payment, a disconnection fee of ten dollars (\$10), a reconnection fee of fifteen dollars (\$15) and a returned check fee of twenty dollars (\$20)

The July 11, 2005 Authority Conference

Pursuant to Tenn. Code Ann § 65-4-201(a) (2004) public notice of the Hearing in this matter was issued by the Hearing Officer on June 16, 2005. No person sought intervention prior to or during the Authority Conference. At the Authority Conference held on July 11, 2005, Mr Charles Pickney, President of TWS, participated, presented testimony and was subject to examination by the panel Mr. Pickney moved to have his Pre-Filed Testimony entered into the record at the Authority Conference. Additionally, the panel took administrative notice of TWS's 2004 annual report filed with the Authority. At the time of the Authority Conference TWS had not yet received a final approved permit from the Tennessee Department of Environment and Conservation ("TDEC") for the system.

Upon the presentation of the Company's proof, the evidentiary record as a whole and in light of the legal standard set forth in Tenn. Code Ann § 65-4-201(a) (2004), the panel voted unanimously to grant approval of the *Petition* subject to receipt of a final approved permit from TDEC evidencing its approval of the Company's application to provide service to Majestic Mountain Resort The panel also ordered that TWS notify the Authority in writing at the time it receives an operating permit from TDEC for Majestic Mountain Resort.

IT IS THEREFORE ORDERED THAT:

1. The *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* to expand its service area to include Majestic Mountain Resort in Sevier

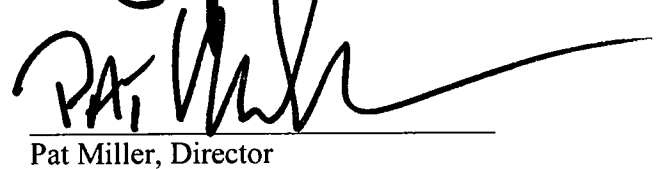
County, Tennessee, as shown in the map attached to the *Petition* is approved subject to receipt of a final approved permit from the Tennessee Department of Environment and Conservation

2. The Petitioner's rates for wastewater service shall be as listed in the rate schedules filed with the *Petition* and as set forth in this Order.

3 Tennessee Wastewater Systems, Inc. shall provide written notification to the Authority once it has received a final approved permit evidencing the Tennessee Department of Environment and Conservation's approval of Tennessee Wastewater Systems, Inc.'s application to provide service to Majestic Mountain Resort in Sevier County, Tennessee



Ron Jones, Chairman



Pat Miller, Director



Sara Kyle, Director